

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Lai	Team: Team # 1	CCRB Case #: 201212775	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/29/2012 3:00 AM	Location of Incident: § 87(2)(b) 75th Precinct stationhouse	Precinct: 75	18 Mo. SOL 3/29/2014	EO SOL 3/29/2014	
Date/Time CV Reported Wed, 10/03/2012 9:19 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/03/2012 9:19 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Walters	17260	952335	PBBN
2. SGT Burt Antoine	01082	939877	PBBN
3. POF Shurland Marshall	17840	951281	PBBN
4. POM Gary Leite	27464	948376	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Ileana Feliz	25565	950538	PBBN
2. POM Michael Tavorario	29172	931306	075 PCT
3. POM Erik Moreno	08278	939074	075 PCT
4. SGT Justin Simms	05571	937542	075 PCT
5. POF Charlene Smith	29722	935762	PBBN
6. POF Shameeka Smith	10237	951280	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.SGT Burt Antoine	Abuse: In front of § 87(2)(b) in Brooklyn, Sgt. Burt Antoine stopped § 87(2)(b)	§ 87(2)(b)
B.SGT Burt Antoine	Abuse: Sgt. Burt Antoine entered § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.SGT Burt Antoine	Force: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine pointed his gun at § 87(2)(b)	§ 87(2)(b)
D.SGT Burt Antoine	Discourtesy: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine spoke discourteously to § 87(2)(b)	§ 87(2)(b)
E.SGT Burt Antoine	Abuse: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
F.SGT Burt Antoine	Force: In front of § 87(2)(b) in Brooklyn, Sgt. Burt Antoine used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G.POM Christophe Walters	Discourtesy: In front of § 87(2)(b) in Brooklyn, PO Christopher Walters spoke discourteously to § 87(2)(b)	
H.POF Shurland Marshall	Discourtesy: At the 75th Precinct stationhouse, PO Shurland Marshall spoke discourteously to § 87(2)(b)	
I.POM Gary Leite	Discourtesy: At the 75th Precinct stationhouse, PO Gary Leite spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint with IAB over the telephone on September 29, 2012, generating referral number 12-52178. His brother, § 87(2)(b) filed a complaint with the CCRB over the telephone on October 3, 2012. On September 29, 2012, at approximately 3:00 a.m., § 87(2)(b) was approached by Sgt. Burt Antoine, PO Ileana Feliz, PO Christopher Walters, and PO Shurland Marshall of the 75th Precinct. Their subsequent interaction resulted in the following allegations:

- **Allegation A – Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Sgt. Burt Antoine stopped § 87(2)(b)**
§ 87(2)(g)
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- **Allegation B – Abuse of Authority: Sgt. Burt Antoine entered § 87(2)(b) in Brooklyn.**
§ 87(2)(g)
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- **Allegation C – Force: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine pointed his gun at § 87(2)(b)**
§ 87(2)(g)
.
- **Allegation D – Abuse of Authority: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine spoke discourteously to § 87(2)(b)**
- **Allegation E – Abuse of Authority: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine threatened § 87(2)(b) with the use of force.**
- **Allegation F – Force: In front of § 87(2)(b) in Brooklyn, Sgt. Burt Antoine used physical force against § 87(2)(b)**
- **Allegation G – Discourtesy: In front of § 87(2)(b) in Brooklyn, PO Christopher Walters spoke discourteously to § 87(2)(b)**
- **Allegation H – Discourtesy: At the 75th Precinct stationhouse, PO Shurland Marshall spoke discourteously to § 87(2)(b)**
§ 87(2)(g)
.
- **Allegation I – Discourtesy: At the 75th Precinct stationhouse, PO Gary Leite spoke discourteously to § 87(2)(b)**
§ 87(2)(g)
.
- § 87(2)(g), § 87(4-b)
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This case was initially assigned to Inv. Jonathan Hutchinson. It was reassigned to the undersigned investigator on August 5, 2013, due to Inv. Hutchinson's departure from the agency.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is an § 87(2)(b) black male who stands 5'7", weighs 120 pounds, and has black dreadlocks and brown eyes.
- § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on October 25, 2012 with his civil attorney present, and answered follow up questions over the telephone on February 8, 2013. § 87(2)(g)

On September 29, 2012, at approximately 3:00 a.m., § 87(2)(b) was in front of his residence at § 87(2)(b) in Brooklyn with his friend, § 87(2)(b) and his brother, § 87(2)(b). § 87(2)(b) denied that they were drinking or smoking anything during that time. § 87(2)(b) wore a blue hooded sweatshirt with a white graphic of his high school's name. He did not recall what pants he wore. He carried his cell phone, wallet, and ChapStick in his pants pockets.

§ 87(2)(b) had been hanging out with § 87(2)(b) and § 87(2)(b) for about ten minutes when he saw what he believed to be a "For Sale" sign on a Lexus sedan parked directly across the street, and approached the vehicle. § 87(2)(b) looked at the sign and saw that it was not a For Sale sign; his parents later informed him that the sign was prepared in regards to the vehicle's having been towed. § 87(2)(b) stood within two feet of the vehicle but did not touch it. After reading the sign, § 87(2)(b) immediately walked back across the street to the sidewalk in front of his front door. A marked police van containing four officers drove onto the block and stopped in front of him. § 87(2)(b) initially only noticed the two officers sitting in the front seats of the van but later determined that the van had contained a total of four officers). § 87(2)(b) opened his front door and § 87(2)(b) and § 87(2)(b) entered the residence at the same time that PO Ileana Feliz of the 75th Precinct, who was identified via nameplate and was described as a Hispanic female officer in her thirties, approximately 5'4", 130 pounds, with a medium build, long blond hair, in uniform, sitting in the driver's seat of the van, said, "Hey, boy. Come here." The driver's side of the police van was facing his residence when PO Feliz addressed him. § 87(2)(b) ignored the officer because he "knew his rights," did not want to stop, and entered his residence behind § 87(2)(b) and § 87(2)(b).

When § 87(2)(b) entered the residence, he closed and locked the front door behind him. His mother, § 87(2)(b) was watching television in the living room, near the front door; his sister, § 87(2)(b) and another brother, § 87(2)(b) were talking in § 87(2)(b) bedroom, located off the hallway leading from the front door, close to the front door; and § 87(2)(b) and § 87(2)(b) were in an unknown part of the apartment. § 87(2)(b) walked away from the front door, down the hallway leading toward the kitchen in the rear of the apartment. Officers broke down the front door. § 87(2)(b) did not see this, as he was facing the opposite direction, nor did he see them knock § 87(2)(b) who is in a wheelchair and who had entered the hallway when § 87(2)(b) entered the apartment, to the ground.

Sgt. Burt Antoine of the 75th Precinct, who was identified by nameplate and described as a 35-year-old black male who stood 5'8", weighed 165 pounds, and had a short Caesar haircut and a muscular build, followed § 87(2)(b) down the hallway, pointed a handgun within an inch of § 87(2)(b) head (without making physical contact), and said, "Don't move." Later in

the interview, § 87(2)(b) stated that Sgt. Antoine said, “Don’t fucking move or I’ll shoot everyone in here.” § 87(2)(b) briefly kept walking into his kitchen before Sgt. Antoine and PO Shurland Marshall of Patrol Borough Brooklyn North, who was identified via investigation and described as a 27-year-old black female who stood 5’9” and had short hair and a nameplate with the surname “Smith” (her maiden name, which she was using at the time of this incident), grabbed him and pulled him back down the hallway toward the front door. As Sgt. Antoine and PO Marshall pulled him out of his apartment, § 87(2)(b) noticed that the metal on the latch of the front door was bent, and the surrounding wood on the doorframe was broken.

Sgt. Antoine and PO Marshall led § 87(2)(b) out of his apartment and pushed him backwards against a fence outside his front door while telling him that he was moving, but § 87(2)(b) did not physically move. Later in his interview, he said that Sgt. Antoine pushed him against the fence and then pushed him down to the ground. When § 87(2)(b) fell to the ground, he struck the back of his head, behind one of his ears, on a ramp on the sidewalk, causing him to sustain a small knot behind his ear. § 87(2)(b) was lying on his side and Sgt. Antoine punched him once in the chest before officers placed him in handcuffs. In § 87(2)(b) initial complaint, he said that Sgt. Antoine punched him in the lip and the ear. § 87(2)(b) denied moving his arms or hands away from the officers at any point while they were making physical contact with him. § 87(2)(b) observed PO Christopher Walters of Patrol Borough Brooklyn North, who was identified via investigation and described as a 29-year-old white male who stood 6’0”, weighed 180 pounds, and had a medium build and short brown hair, at the location. § 87(2)(b) did not observe any additional police vehicles.

Officers lifted § 87(2)(b) to his feet and led him to the police van, and § 87(2)(b) asked what he had done. PO Walters replied, “Shut the fuck up” and § 87(2)(b) was placed inside the police van. In § 87(2)(b) initial complaint, he said that PO Walters said, “Shut the fuck up. We are not giving your mother the fucking phone.” PO Feliz was driving the vehicle, Sgt. Antoine was sitting in the front seat of the vehicle, and PO Marshall and PO Walters were sitting in the rear of the vehicle, when he was transported to the stationhouse. When the vehicle arrived at the stationhouse, § 87(2)(b) asked PO Marshall to retrieve his wallet, which had fallen onto the floor of the van; PO Marshall replied, “Shut the fuck up.” In § 87(2)(b) initial complaint, he said that PO Smith said, “We are going to lock your fucking ass up.” § 87(2)(b) was charged with resisting arrest and later transported to Brooklyn Central Booking, but he was released without seeing a judge. The officers never told § 87(2)(b) why they had stopped him.

Complainant/ Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) black male who stands 6’0”, weighs 170 pounds, and has black hair and brown eyes. He is wheelchair-bound.
- § 87(2)(b)

CCRB Testimony

In addition to § 87(2)(b) statement to IAB, he was interviewed at the CCRB on October 25, 2012 with his civil attorney present. § 87(2)(g)

On September 29, 2012, § 87(2)(b) was inside his residence at § 87(2)(b) in Brooklyn, sitting in the front hallway in his wheelchair, with the brakes engaged. § 87(2)(b) was sitting near the front door of the residence and talking to § 87(2)(b) who was in her bedroom, located down the hallway.

§ 87(2)(b) walked through the front door and locked it. § 87(2)(b) immediately heard someone bang on the other side of the door several times as § 87(2)(b) walked down

the hallway toward the rear of the apartment. The front door “flew” open and an officer, identified via investigation as Sgt. Antoine, ran inside with his gun drawn. Sgt. Antoine ran past § 87(2)(b) and, in an attempt to reach § 87(2)(b) pushed past § 87(2)(b) with his shoulder, making contact with the upper left side of § 87(2)(b) chest. As the brakes on § 87(2)(b) wheelchair were engaged, he fell straight backwards, so that the back of the wheelchair hit the ground. His legs, which have no musculature to support themselves, bent backward, over his head. He was unable to see what was happening inside the apartment after falling backwards. In § 87(2)(b) statement to IAB, he stated that police grabbed him, threw him off his wheelchair, and an officer pointed a gun at his head and told him not to move.

§ 87(2)(b) heard Sgt. Antoine say, “Don’t fucking move, I’m gonna shoot everyone in here,” while in the rear of the apartment. § 87(2)(b) helped § 87(2)(b) up and § 87(2)(b) called 911 for an ambulance. § 87(2)(b) traveled to § 87(2)(b) in an ambulance following the incident but was not diagnosed with any injuries. § 87(2)(b) spoke with an IAB investigator over the phone prior to traveling to the hospital. § 87(2)(b) and § 87(2)(b) went to the 75th Precinct stationhouse following the incident to obtain information about § 87(2)(b) arrest.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) black female who stands 5’0” and has black hair. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on October 25, 2012 with her civil attorney present. § 87(2)(g)

On September 29, 2012, § 87(2)(b) was inside the living room of her residence at § 87(2)(b) when she heard a loud pounding sound coming from her front door. § 87(2)(b) got up and saw two officers, identified via investigation as Sgt. Antoine and PO Feliz, enter and run toward the rear of the apartment towards her kitchen; Sgt. Antoine had his gun drawn. § 87(2)(b) later saw that the officers had damaged her door in the process of entering her apartment. The officers accidentally knocked § 87(2)(b) out of his wheelchair and onto the ground, since they did not know he was behind the door. Later in the interview, § 87(2)(b) clarified that she did not see this happen. Sgt. Antoine held § 87(2)(b) against a wall inside the kitchen and she asked the officers what was happening. Sgt. Antoine said something to § 87(2)(b) which included the words “shoot” and “fuck.”

The officers placed § 87(2)(b) in a police vehicle and § 87(2)(b) asked PO Feliz where they were taking him. PO Feliz said, “1000 Sutter,” identified by the investigation as the address for the 75th Precinct stationhouse. § 87(2)(b) called the 75th Precinct stationhouse and asked if she could file a complaint there, and was told that she could. § 87(2)(b) changed her clothes and she, § 87(2)(b) and possibly § 87(2)(b) drove to the 75th Precinct stationhouse.

At the stationhouse, § 87(2)(b) spoke with Sgt. Antoine, who told her that he would travel to her residence to take photographs of the damage to her door. Another officer, who § 87(2)(b) was only able to describe as a female supervisor, told her that officers entered her apartment after seeing § 87(2)(b) run inside.

§ 87(2)(b) left the stationhouse but returned with § 87(2)(b) later the same day, at an unknown time before noon, after Sgt. Antoine did not respond to her residence. § 87(2)(b) asked a uniformed officer, identified via investigation as PO Gary Leite of the 75th Precinct, who was described as a Hispanic or white male in his late-30s, 5’8”, 170 pounds, and

§ 87(2)(b) and § 87(2)(b) did not want to speak to the officers, and walked inside the house.

As all three stood by the stairwell inside the house and near the front door, § 87(2)(b) heard one of the van's doors open. There was loud banging at the front door, prompting § 87(2)(b) who was in § 87(2)(b) bedroom next to the front door, to come out. Sgt. Antoine broke through the door, at which point § 87(2)(b) ran down the hall towards the kitchen, where § 87(2)(b) was located. Sgt. Antoine pushed § 87(2)(b) with his hands, drew his gun, and followed § 87(2)(b). Sgt. § 87(2)(b) [sic] and another officer grabbed § 87(2)(b) and brought him out of the house. § 87(2)(b) did not recall any statements made by § 87(2)(b) or any of the officers while inside the house.

§ 87(2)(b) stood on the porch and saw that § 87(2)(b) "tussled" with officers, but he was unable to describe specific physical actions. At some point, § 87(2)(b) was on the ground, but § 87(2)(b) did not see how that occurred. § 87(2)(b) did not recall any statements made by § 87(2)(b) or the officers while they were outside, and he did not recall if he saw § 87(2)(b) handcuffed. § 87(2)(b) pulled § 87(2)(b) inside the house and closed the door, preventing him from seeing any further interaction.

Attempts to Contact Civilians

On January 3, 2013, § 87(2)(b) telephone number was disconnected and a letter was mailed to her. The CCRB called § 87(2)(b) for additional contact information for § 87(2)(b) and he provided an alternate telephone number. Upon a call to § 87(2)(b) using the alternate number on February 8, 2013, she provided her contact information and said that she would call back as soon as possible. She did not call back, and a letter and email were sent to her. On February 15, 2013, the CCRB called § 87(2)(b) who said that she would call back on February 19, 2013, to schedule an interview. On that date, she did not call back and her telephone was unable to accept messages. On February 20, 2013, the CCRB called her and scheduled an interview for February 28, 2013. § 87(2)(b) called the CCRB at approximately 4:55 p.m. to say she would be late for her 4:00 p.m. appointment. She was informed to call back to reschedule. As of the date of this report, § 87(2)(b) has not contacted the CCRB.

Video Transcription

§ 87(2)(b), § 87(2)(b) attorney, provided a cell phone video taken by § 87(2)(b) at the 75th Precinct stationhouse on September 29, 2012.

At the beginning of the video, § 87(2)(b) can be seen speaking with PO Leite, a white male officer with dark hair, dressed in uniform, who walked past where she was standing. As PO Leite approached, he said an unintelligible phrase containing the word "complaint." PO Leite then said, "But you can go on Google, CCRB, Civilian Complaint Review Board," and an unintelligible phrase containing the words, "A copy." § 87(2)(b) asked, "CCRB?" and PO Leite replied, "CCRB. Civilian Complaint Review Board. It has all the appropriate steps."

§ 87(2)(b) asked PO Leite, "Can you print out a copy?" and he replied, "There are no fucking copies, excuse my language." PO Leite points to an area and says, "That's where they're kept. I don't even know how to pull it up online, we can't access the internet." § 87(2)(b) asked PO Leite if his supervisor would have a copy, while walking away, and PO Leite, said, "I don't know what else to tell you, I'm being as helpful as I can," before walking over to another civilian and asking if he could help.

NYPD Statements:

Subject Officer: SGT BURT ANTOINE

- *Sgt. Antoine is a § 87(2)(b)-old black male who stands 5'6", weighs 160 pounds, and has black hair and brown eyes.*
- *On September 28, 2012, Sgt. Antoine worked from 7:15 p.m. to 7:12 a.m. on the following day as the 75th Precinct field training unit supervisor in uniform and in marked patrol car 4232 with PO Feliz. At 12:44 a.m., he changed to marked van 5326 with PO Feliz and PO Walters.*

Memo Book

On September 29, 2012, at 3:00 a.m. Sgt. Antoine conducted a foot pursuit of § 87(2)(b) into § 87(2)(b) in Brooklyn. At 3:02 a.m., § 87(2)(b) was arrested by PO Feliz for § 87(2)(b) (encl. O1-3).

CCRB Testimony

Sgt. Antoine was interviewed at the CCRB on March 15, 2013 (encl. O4-6). On September 29, 2012, at approximately 3:00 a.m., Sgt. Antoine was riding in the front passenger seat of the marked van driven by PO Feliz, with PO Walters sitting in one of the rear seats. Sgt. Antoine was not working with any other officers at this time. PO Feliz turned onto § 87(2)(b) between § 87(2)(b) and § 87(2)(b) in Brooklyn, traveling southbound, when Sgt. Antoine observed an individual, identified by the investigation as § 87(2)(b) looking into the front passenger-side window of a vehicle, parked on the west side of the street, on the passenger-side of the police van. When § 87(2)(b) noticed the police van, he abruptly ran across the street, crossing in front of the police van. Sgt. Antoine estimated that the police van was approximately four houses away from § 87(2)(b) when he ran across the street. The area has a high incidence of crime related to grand larceny auto. The prevalence of such crimes in the area, in conjunction with § 87(2)(b) behavior around the vehicle and abrupt movement away from the vehicle, caused Sgt. Antoine to suspect that § 87(2)(b) was preparing to steal the vehicle.

With her window down, PO Feliz called out to § 87(2)(b) from inside the van and asked him to step over to the van. At the time, § 87(2)(b) was standing on the sidewalk next to the van, approximately seven to eight feet away from PO Feliz's window. § 87(2)(b) grabbed the front of the waistband of his pants, towards the side with both hands, and ran into a residence at § 87(2)(b), next to where he was standing, while holding his waistband with both hands. § 87(2)(b) refusal to approach the police vehicle, his flight, and his holding of his waistband contributed to Sgt. Antoine's suspicion that he was engaged in a crime. No aspect of § 87(2)(b) physical appearance caused Sgt. Antoine to suspect that he was armed. Sgt. Antoine immediately exited the vehicle and ran after § 87(2)(b) who closed the door of the building. Two individuals remained next to the door outside of the building when Sgt. Antoine pursued § 87(2)(b).

Sgt. Antoine, who was directly behind § 87(2)(b) when he closed the door, struck the door with his shoulder, immediately breaking through the door. § 87(2)(b) closed the door completely prior to the point that he broke through the door. Sgt. Antoine did not know whether the door was locked. Sgt. Antoine later observed damage to the door as a result of his entry. In his interview, upon the suggestion of his attorney, Sgt. Antoine confirmed that he was in "hot pursuit" of § 87(2)(b) when he broke through the door. Later in the interview, Sgt. Antoine stated that, based on his training and experience, he did not need a warrant to enter the building, since he was in "hot pursuit" of § 87(2)(b). Sgt. Antoine was in hot pursuit of § 87(2)(b).

because he was in close proximity to him and because he suspected that a violent crime - grand larceny auto and possession of a weapon - was possibly in progress.

When Sgt. Antoine entered the building, he drew his gun and observed § 87(2)(b) crouching behind a wall at the end of the hallway leading from the front door. Sgt. Antoine described the building as a private house and confirmed that the hallway immediately inside the front door was part of the private residence. Sgt. Antoine denied that the hallway constituted a shared space inside the building and confirmed that he accessed a private apartment or house immediately upon breaking through the front door. PO Feliz and PO Walters followed Sgt. Antoine into the building and the two individuals who had been standing outside of the building followed the officers inside.

Sgt. Antoine instructed § 87(2)(b) to stand up and show his hands while approaching him with his gun pointed at him. Sgt. Antoine denied that he threatened to shoot § 87(2)(b) or any other individual. § 87(2)(b) immediately stood up and displayed his hands. Sgt. Antoine grabbed § 87(2)(b) and led him out of the building, while looking around the hallway. § 87(2)(b) mother and sister both came into the hallway when the officers led him out. Sgt. Antoine did not see an individual in a wheelchair and denied seeing any individual in a wheelchair knocked over during the incident.

Sgt. Antoine attempted to ask § 87(2)(b) questions when they got outside of the building. He was not handcuffed and was not under arrest. Sgt. Antoine followed § 87(2)(b) into the building so that he could question him in regards to the vehicle that he was looking into and the possibility that he was in possession of a weapon. He was taken outside for questioning and to frisk his waistband for weapons to ensure the officers' physical safety. When Sgt. Antoine instructed PO Walters to stay with § 87(2)(b) he lunged toward Sgt. Antoine, with both hands raised near his head and shoulders, in fists, and said, "Why don't you do something?" which Sgt. Antoine interpreted as a threat. Sgt. Antoine pushed § 87(2)(b) backward, away from him, so that the back of his legs struck a thigh-high fence that was behind him. Sgt. Antoine held onto § 87(2)(b) shoulders, so that he did not fall backward over the fence, and attempted to turn him around to handcuff him.

§ 87(2)(b) flailed his arms in front of him, near Sgt. Antoine's chest, and moved his upper body back and forth. Sgt. Antoine and other officers proceeded to handcuff § 87(2)(b) who continued to flail his arms, but the officers successfully pulled his arms behind his back and handcuffed him. Sgt. Antoine denied that § 87(2)(b) was ever taken to the ground or ever struck his head on the ground. Sgt. Antoine did not observe any injuries to § 87(2)(b) head and did not see any action that could have caused him to sustain an injury to his head. Neither Sgt. Antoine nor an officer punched § 87(2)(b). § 87(2)(b) was placed inside the van, in the rear row of seats, and the officers transported him to the 75th Precinct stationhouse. PO Walters sat in the rear seats with § 87(2)(b). Sgt. Antoine denied that he or any officer used profanity at any point during the incident.

Following the incident, § 87(2)(b) informed the officers that he had been looking at a for-sale sign on the parked vehicle when the officers approached in the police van; Sgt. Antoine denied that there had been a for-sale sign on the vehicle. § 87(2)(b) was charged with disorderly conduct and resisting arrest. Sgt. Antoine stated that § 87(2)(b) mother, his sister, and the two individuals who had been with § 87(2)(b) outside of his building, came to the 75th Precinct stationhouse following the incident to obtain information about § 87(2)(b) arrest. Sgt. Antoine did not recall that any of the individuals wanted to file a complaint against officers and did not hear any officer tell any individuals that they could not file a complaint. Sgt. Antoine spoke with the individuals before his lieutenant, Lt. Mullen, met with them.

Witness Officer: PO ILEANA FELIZ

- *PO Feliz is a § 87(2)(b)-old Hispanic female who stands 5'2" and has brown hair and brown eyes.*
- *On September 28, 2012, PO Feliz worked from 7:30 p.m. to 7:10 p.m. the following day as the 75th Precinct sergeant's operator, with Sgt. Antoine. PO Feliz was dressed in uniform and was assigned to a marked van, number 5326, starting at 12:41 a.m., of which she was the driver.*

Memo Book

PO Feliz's memo book noted that, at 12:41 a.m., on September 29, 2012, she switched vehicles, to van number 5326. At 3:00 a.m., she prepared a Stop, Question, and Frisk Report for § 87(2)(b) who was stopped at § 87(2)(b) after he was observed looking into the window of a parked vehicle. Upon officers' approaching § 87(2)(b) and asking him to stop, he fled into § 87(2)(b) and hid behind a wall. When he was led out of the location, § 87(2)(b) screamed profanities, including, "Fuck you," causing public annoyance and alarm. While officers were attempting to place § 87(2)(b) under arrest, he flailed his arms in an attempt to avoid arrest. At 3:02 a.m., § 87(2)(b) was arrested in front of § 87(2)(b) (encl. M1-5).

Arrest Report

§ 87(2)(a) 160.50

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

CCRB Testimony

PO Feliz was interviewed at the CCRB on February 26, 2013 (encl. M9-11). § 87(2)(g)

On September 29, 2012, at approximately 3:00 a.m., PO Feliz was driving a marked van when she observed an individual, identified by the investigation as § 87(2)(b) looking into a parallel-parked vehicle of unknown make and model on the west side of § 87(2)(b) with his head against the glass of the rear window on the driver-side of the vehicle. PO Feliz observed § 87(2)(b) looking into the vehicle window for one to two minutes and did not recall whether he looked into any of the other windows of the vehicle. There was writing from a towing company on the windows of the vehicle. When § 87(2)(b) noticed the police van driving toward him, he immediately crossed the street, in front of the police vehicle, crossing from the passenger-side to the driver-side of the vehicle. Based upon her observation of § 87(2)(b) looking inside the vehicle, PO Feliz suspected that § 87(2)(b) was attempting to commit grand larceny auto, or was examining the interior of the vehicle for valuables. PO Feliz lowered her window and asked § 87(2)(b) what he was doing. § 87(2)(b) said, "Nothing," and PO Feliz told him that she wanted to talk to him, saying, "Come here." § 87(2)(b) said, "No," turned away from the police van, and ran to the front door of § 87(2)(b) PO Feliz did not recall if the front door was already open or if § 87(2)(b) shut the door behind him.

PO Feliz exited the vehicle and followed § 87(2)(b) into the building. Sgt. Antoine was the first officer who entered the building. She did not recall if the door was closed or if an officer opened or broke through the door. When presented with photographs depicting damage to

the front door of the building, PO Feliz stated that she did not observe the damage. PO Feliz did not observe any action that could have caused the door to sustain damage during the incident. When PO Feliz entered the building, she observed numerous members of § 87(2)(b) family in the residence. PO Feliz did not see any individual in a wheelchair during the incident and denied seeing any individual in a wheelchair pushed over by officers. She observed a staircase leading to the second floor of the building, on the right side of the hallway leading from the front door, with a wall adjacent to the staircase. PO Feliz observed § 87(2)(b) standing behind the wall, on the opposite side of the wall from the front door. When PO Feliz saw § 87(2)(b) she said, “Stop.” PO Feliz did not recall whether Sgt. Antoine said anything while inside the building. She did not draw her gun and she did not recall if Sgt. Antoine drew his gun. PO Feliz denied hearing any officer threaten § 87(2)(b) including threatening to shoot him, and denied that any officer used profanity at any point during the incident.

The officers followed § 87(2)(b) into the hallway of the building, a shared space in the building, but did not enter any individual apartments. The officers brought § 87(2)(b) outside and Sgt. Antoine attempted to talk to him. When § 87(2)(b) was brought out of the building, he was not under arrest and was not going to be charged with a crime. § 87(2)(b) immediately started yelling and screaming at the officers, saying, “What the fuck?”, “Leave me alone,” and, “Fuck you.” PO Feliz stated that, although she did not see any civilians outside, she assumed § 87(2)(b) yelling and screaming caused public annoyance and alarm, since it was approximately 3:00 a.m.

§ 87(2)(b) pushed his chest out toward Sgt. Antoine and moved toward him, causing PO Feliz to suspect that he was going to strike Sgt. Antoine. Officers grabbed § 87(2)(b) pulled his arms behind his back, and placed him in handcuffs. § 87(2)(b) was not taken to the ground and he did not strike his head on the ground during the incident. § 87(2)(b) was handcuffed while leaning against the gate in front of his building but was not pushed up against the gate. PO Feliz denied that an officer punched § 87(2)(b).

PO Feliz did not recall that § 87(2)(b) asked any officer to pick his wallet up while inside the van and denied that any officer used profanity while inside the van. An individual, identified via investigation as § 87(2)(b) arrived at the stationhouse approximately thirty minutes after the incident, at which point she apologized for her son’s behavior. PO Feliz did not recall which officer § 87(2)(b) spoke to and denied hearing § 87(2)(b) state that she wanted to file a civilian complaint. PO Feliz did not recall that any officer refused to assist § 87(2)(b) in filing a complaint.

Subject Officer: PO CHRISTOPHER WALTERS

- *PO Walters is a § 87(2)(b)-old white male who stands 6’4”, weighs 215 pounds, and has brown hair and green eyes.*
- *On September 28, 2012, PO Walters worked from 7:30 p.m. to 4:05 a.m. the following day and was assigned to a foot post in uniform.*

Memo Book

PO Walters did not have any memo book entries regarding this incident (encl. N1-2).

CCRB Testimony

PO Walters was interviewed at the CCRB on February 26, 2013 (encl. N3-4). § 87(2)(b)

(g)

At approximately 3:00 a.m. on September 29, 2012, PO Walters was picked up in a marked van by PO Feliz and Sgt. Antoine so that he could be transported to the 75th Precinct stationhouse for the end of his tour. PO Walters sat in one of the rear seats of the marked van. The vehicle turned onto § 87(2)(b) when PO Feliz observed an individual, identified by the investigation as § 87(2)(b) who she wanted to question. PO Walters observed § 87(2)(b) cross § 87(2)(b) in front of the police van but he did not observe the initial behavior that led to PO Feliz wanting to question him.

When PO Feliz attempted to question § 87(2)(b) he ran into § 87(2)(b) via the front door, which was closed. PO Feliz did not recall whether § 87(2)(b) closed the door behind him. Sgt. Antoine and PO Feliz immediately exited the vehicle and followed § 87(2)(b) into the building. PO Walters did not recall whether the front door was closed or locked when the officers entered the building and did not know how they accessed the building.

PO Walters exited the van after Sgt. Antoine and PO Feliz and followed them into the building. By the time PO Walters exited the van, the front door of the building was open and his partners were inside. When PO Walters entered the building, PO Feliz and Sgt. Antoine were holding § 87(2)(b) with numerous family members in their vicinity. The individuals were all in the shared hallway of the building, immediately following the front door, which accessed two floors inside the building, with multiple private apartments on each floor. PO Walters confirmed that the doors to the private apartments on the first floor were connected to the hallway but denied that officers entered any individual apartments. PO Walters did not see whether any of the doors to the apartments were open. PO Walters did not see any individual in a wheelchair and did not see any individual in a wheelchair knocked over upon the officers' entry.

PO Walters led § 87(2)(b) out of the building after being inside for approximately thirty seconds and held onto him until Sgt. Antoine exited the building. PO Walters did not observe any officers draw or point their guns during the incident and denied that officers used profanity or threatened to shoot any individual, at any point during the incident. PO Walters did not know at which point § 87(2)(b) was considered to be under arrest and did not know whether § 87(2)(b) was going to be arrested when he was removed from the building.

Immediately outside of the front door, Sgt. Antoine briefly spoke with § 87(2)(b) before attempting to pull his arms behind his back and place him in handcuffs. § 87(2)(b) violently flailed his arms near Sgt. Antoine's face, refusing to be handcuffed. Later in the interview, PO Walters stated that Sgt. Antoine was frisking § 87(2)(b) waistband when he flailed his arms in Sgt. Antoine's face. § 87(2)(b) did not strike any officers when he was flailing his arms.

PO Walters and Sgt. Antoine grabbed § 87(2)(b) arms and pulled him to the ground, onto his stomach. The officers pulled § 87(2)(b) arms behind his back and placed him in handcuffs. § 87(2)(b) head did not strike the ground. § 87(2)(b) cursed at the officers throughout the incident, although PO Walters did not recall his exact language. PO Walters did not know whether any of § 87(2)(b) family members came to the stationhouse following the incident and denied hearing of § 87(2)(b) family members state that they wanted to file a complaint against officers while at the stationhouse. PO Walters did not hear any officer refuse

to assist any civilian in filing a complaint on the date of the incident. PO Walter ended his tour shortly after at 4:05 a.m.

Subject Officer: PO SHURLAND MARSHALL

- *PO Marshall's maiden surname was Smith. She is a § 87(2)(b)-old black female who stands 5'8", weighs 160 pounds, has black hair and brown eyes, and wears glasses.*
- *She was on-duty on from 7:30 p.m. on September 28, 2012, to 4:05 a.m. the next day, assigned to foot post 18 in uniform.*

Memo Book

On September 29, 2012, at 2:45 a.m., PO Marshall was in a marked van with Sgt. Antoine and PO Feliz. At 2:55 a.m., § 87(2)(b) was stopped in front of § 87(2)(b). At 3:02 a.m., PO Feliz arrested § 87(2)(b). At 3:10 a.m., PO Marshall returned to the 75th Precinct stationhouse (encl. U1-3).

CCRB Testimony

PO Marshall was interviewed at the CCRB on January 7, 2014 (encl. U4-5). On the date of the incident, Sgt. Antoine, PO Feliz, and PO Walters picked up PO Marshall from her post for a reason that she did not recall. PO Feliz sat in the driver's seat, Sgt. Antoine in the front passenger seat, PO Walters in the rear passenger seat behind PO Feliz, and PO Marshall in the rear passenger seat behind Sgt. Antoine. As PO Marshall spoke with PO Walters, PO Feliz stopped the van, and Sgt. Antoine and PO Feliz immediately exited and ran towards the left to the building. § 87(2)(b) was also outside and ran towards the building. PO Marshall did not know why Sgt. Antoine and PO Feliz exited and ran. PO Marshall exited the van to follow Sgt. Antoine and PO Feliz, but she noticed that the van was rolling backwards. PO Walters was still in the van at this time. PO Marshall shouted to PO Feliz that the van was rolling backwards and to place it in park. PO Feliz, who had run a distance that PO Marshall did not recall, ran back to the van and placed it in park. Thereafter, PO Feliz, PO Marshall, and PO Walters ran to the front of the building, where Sgt. Antoine and § 87(2)(b) stood.

PO Marshall did not enter or see an officer enter the building. She did not see an officer physically open the front door, draw or point their gun at anyone, use profanity (including the word "fuck"), or threaten to shoot anyone. PO Marshall did not see the front door open and she did not see any civilian other than § 87(2)(b). In front of the building, Sgt. Antoine repeatedly told § 87(2)(b) to put his arms behind his back but he refused, yelling and asking what he did, and flailing his arms in front of him in an apparent attempt to prevent Sgt. Antoine from restraining him. PO Marshall did not see § 87(2)(b) and Sgt. Antoine's interaction prior to this. PO Marshall, PO Feliz, and Sgt. Antoine tried to handcuff § 87(2)(b). PO Marshall stood behind him and tried to restrain one of his arms; she did not recall the other officers' physical actions. Neither she nor an officer pushed, punched, or otherwise struck § 87(2)(b) and he was never placed against a wall, gate, fence, or on the ground. An officer who PO Marshall did not recall eventually handcuffed § 87(2)(b) the entire process took less than a minute.

After § 87(2)(b) was handcuffed, he was placed in the van. A female, identified via investigation as § 87(2)(b) asked for § 87(2)(b) and PO Marshall told her that he was being taken to the 75th Precinct stationhouse. En route, PO Marshall told § 87(2)(b) that everything would "be sorted out" once they got to the stationhouse. Once there, PO Marshall did not interact nor know of § 87(2)(b) whereabouts since she was not the arresting officer. PO Marshall never knew the circumstances leading up to § 87(2)(b) arrest and an officer never

informed her of such. PO Marshall never used any profanity, including saying “shut the fuck up” to § 87(2)(b) and she never heard an officer utter that remark.

Subject Officer: PO GARY LEITE

- *PO Leite is a § 87(2)(b)-old white male who stands 5’6”, weighs 185 pounds, and has brown hair and blue eyes.*
- *On September 29, 2012, he was on-duty from 3:00 p.m. to 11:35 p.m., assigned as the assistant desk officer in the 75th Precinct stationhouse.*

Memo Book

PO Leite had no memo book entries regarding this incident as he was assigned to administrative duties in the 75th Precinct stationhouse (encl. V1-2).

CCRB Testimony

PO Leite was interviewed at the CCRB on February 4, 2014 (encl. V3-4). He had no recollection of this incident. He did not recall speaking to a female who wanted to file a complaint against an officer at the stationhouse. PO Leite did not recognize a photograph of § 87(2)(b) during the interview. PO Leite asserted that typically, if a civilian wanted to file a complaint against an officer at the stationhouse, he would notify the desk sergeant and direct the civilian to speak with the sergeant. PO Leite and police officers in general would not be permitted to process the complaint as that is a sergeant’s or supervisor’s responsibility. PO Leite did not recall who the desk sergeant on-duty was during this incident. CCRB forms are typically held in a bin near the waiting area and where the PAAs sit in the stationhouse. PO Leite believed, but was uncertain, that the desk sergeant would have likely directed a complainant to retrieve a complaint form from a PAA. PO Leite did not recall directing a civilian to speak to the desk sergeant in regards to filing a complaint. PO Leite did not know who would be responsible in ensuring that there were available forms to use.

PO Leite was shown a video recording taken by § 87(2)(b) at the 75th Precinct stationhouse. He did not recall how his interaction with § 87(2)(b) and § 87(2)(b) began, but he assumed that a supervisor likely directed him to retrieve a form for them. It appeared that he went to check if there were CCRB complaint forms and discovered that there were none left. PO Leite was unable to access the forms through a computer, and thus directed § 87(2)(b) and § 87(2)(b) to do a Google search for the CCRB, where they could file a complaint. With regard to the recording showing PO Leite saying “there are no fucking copies”, PO Leite said that “it slipped” but he apologized immediately by saying, “Excuse my language.” PO Leite did not recall speaking to § 87(2)(b) or § 87(2)(b) any further than what was shown in the video. He did not recall informing the desk officer or supervisor that there were no more available complaint forms.

Witness Officer: SGT JUSTIN SIMMS

- *Sgt. Simms is a § 87(2)(b)-old white male who stands 6’1”, weighs 220 pounds, and has blonde hair and grey eyes.*
- *He was on-duty from 11:05 p.m., on September 28, 2012, to 8:02 a.m. the next day, assigned as the desk officer in uniform.*

Memo Book

Sgt. Simms had no memo book entries regarding this incident because it is not required for a desk officer (encl. Q1-2).

CCRB Testimony

Sgt. Simms was interviewed at the CCRB on July 16, 2013 (encl. Q3-4). He had no recollection of this incident. When shown a copy of the command log, Sgt. Simms stated the entry regarding the arrest was not written in his handwriting. Sgt. Simms ‘closed out’ the command log hours after the entry was written in about the arrest. Sgt. Simms stated it is likely he was present in the stationhouse after the arrest was made, but he did not recall seeing § 87(2)(b) in the stationhouse. When shown a photograph of § 87(2)(b) Sgt. Simms did not recognize him. Sgt. Simms did not recall § 87(2)(b) coming to the stationhouse to file a complaint in regards to the incident.

Other Officers Interviewed

PO Michael Tavolaro and PO Erik Moreno were interviewed at the CCRB on July 2 (encl. P1-4) and July 20, 2013 (encl. R1-6), respectively. These officers signed into the Interrupted Patrol Log at the estimated time of § 87(2)(b) presence at the 75th Precinct stationhouse and their physical attributes were similar to the description § 87(2)(b) provided and as shown in the video recording. PO Charlene Smith and PO Sha-meeka Smith were interviewed on November 19, 2013 and December 30, 2013, respectively. Both officers shared the same surname as PO Marshall before she changed it, and both were assigned to Patrol Borough Brooklyn North during this incident. However neither officer was present for this incident.

NYPD Documents

SPRINT

Job number § 87(2)(b) shows that on September 29, 2012, at 3:02 a.m., Sgt. Antoine requested arrest verification for § 87(2)(b) which was confirmed at 7:34 a.m. Job number § 87(2)(b) shows that at 3:14 a.m., § 87(2)(b) called 911 in regards to § 87(2)(b) At 3:29 a.m., Det. Nelson Tam of IAB requested an ambulance for § 87(2)(b) at § 87(2)(b) At 3:44 a.m., EMS arrived on-scene (encl. W1-3).

Declined Prosecution Statement

§ 87(2)(a) 160.50, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Command Log

The command log noting § 87(2)(b) arrest and entry into the stationhouse affirms that force was used against him (encl. W4).

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b) (encl. G6-7; H8-9; I11-12). § 87(2)(b) claimed he was falsely arrested and imprisoned, battered, and subjected to excessive force. § 87(2)(b) claimed that he was subjected to battery and negligence. § 87(2)(b) claimed she was subjected to property damage. In addition, all three claimed that they were subjected to intentional infliction of emotional distress and trespass while § 87(2)(b) and § 87(2)(b) also claimed that they were assaulted.
- § 87(2)(b) and § 87(2)(b) seek an unspecified, “reasonable amount” of compensation. As of January 9, 2014, 50-H hearings have not been conducted for their claims.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (encl.C1-3).

Subject Officers CCRB History

- Sgt. Antoine has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. B1-2).
- PO Marshall and PO Walters have been members of the service for two years and there are no substantiated CCRB allegations against them (encl. B3-4).
- PO Leite has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. B5).

Conclusion

Identification of Subject Officers

Sgt. Antoine, PO Walters, and PO Marshall acknowledged interacting with § 87(2)(b) PO Leite acknowledged interacting with § 87(2)(b) after he was shown the video recording depicting his interaction with her.

Investigative Findings and Recommendations

Allegations Not Pled

§ 87(2)(g)

Allegation A – Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Sgt. Burt Antoine stopped § 87(2)(b)

§ 87(2)(b) stated that he looked at what appeared to be a “For Sale” sign affixed to a car that was parked across the street from § 87(2)(b) § 87(2)(b) walked back across the street to the sidewalk in front of his front door and a marked police van containing four officers drove onto the block and stopped in front of him. § 87(2)(b) opened his front door and entered the residence while PO Feliz said, “Hey, boy. Come here.” § 87(2)(b) ignored PO Feliz, entered his residence and closed the front door.

According to Sgt. Antoine, § 87(2)(b) looked into the front passenger window of a vehicle and ran across the street in front of the police van after he noticed the officers. Additionally, Sgt. Antoine’s assertion that the location has a high incidence of grand larceny auto

crimes led him to suspect that § 87(2)(b) was preparing to steal the vehicle. When PO Feliz asked § 87(2)(b) to approach the van, he grabbed the front of his pants waistband toward the side with both hands, and ran inside § 87(2)(b) while holding his waistband with both hands. § 87(2)(b) refusal to approach the van, flight, and grabbing of his waistband contributed to Sgt. Antoine's suspicion that he was engaged in a crime. No aspect of § 87(2)(b) physical appearance caused Sgt. Antoine to suspect that he was armed. Sgt. Antoine ran after § 87(2)(b) to question him in regards to the vehicle that he was looking into and because he possibly had a weapon.

PO Feliz suspected that § 87(2)(b) was attempting to commit grand larceny auto, or was examining the interior of the vehicle for valuables because he looked into the vehicle with his head against the glass, and crossed the street after seeing the police van. She then said that § 87(2)(b) ran after he crossed the street. PO Walters did not observe § 87(2)(b) actions, but he and PO Feliz stated that § 87(2)(b) ran inside the residence when PO Feliz asked him to come to the van. Neither PO Walters nor PO Feliz mentioned that § 87(2)(b) grabbed his waistband prior to entering the location. PO Marshall did not see § 87(2)(b) actions.

Pursuit of an individual by the police requires reasonable suspicion, which exists when there is founded suspicion that criminality is afoot in addition to flight. People v. Holmes, 81 N.Y.2d 1056 (1993); People v. Riley, 290 A.D.2d 568 (App. Div. 2nd Dep't. 2012) (encl. A1-5).

§ 87(2)(g)
[REDACTED]

Allegation B – Abuse of Authority: Sgt. Burt Antoine entered § 87(2)(b) in Brooklyn.

It is undisputed that Sgt. Antoine entered § 87(2)(b). Sgt. Antoine broke through the front door, entering what he admitted to be a private residence. Sgt. Antoine stated that, based on his training and experience, he did not need a warrant to enter the building, since he was in “hot pursuit” of § 87(2)(b) because he was in close proximity to him and because he suspected that a violent crime (grand larceny auto, criminal possession of a weapon) was possibly in progress. Sgt. Antoine, PO Feliz, § 87(2)(b) and § 87(2)(b) confirmed that officers requested § 87(2)(b) to come over to the van before § 87(2)(b) entered § 87(2)(b). Sgt. Antoine said that § 87(2)(b) was neither handcuffed nor under arrest; he was taken outside for questioning and to frisk his waistband for weapons to ensure the officers' safety.

A suspect may not defeat an arrest which has been set in motion in a public place by escaping into a private place. Factors to consider in determining whether exigent circumstances justify a warrantless entry are (1) the gravity or violent nature of the offense; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause; (4) strong reason to believe that the suspect is inside the premises; (5) a likelihood the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry. People v. Hunter, 92 A.D.3d 1277 (App. Div. 4th Dep't. 2012) (encl. A6-8).

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Force: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine pointed his gun at § 87(2)(b)

It is undisputed that Sgt. Antoine pointed his gun at § 87(2)(b). The Police Department allows an officer broad discretion to draw and point his firearm “so long as he has a reasonable fear for his own or another’s personal safety.” *Police Department v. Gliner*, OATH Index No. 955/00 (Sept. 6, 2000) (encl. A22-40). Determining whether such action constitutes misconduct is made by “assessing the reasonableness of the officer’s actions in the totality of the surrounding circumstances.” *Id.*

§ 87(2)(g)

Allegation D – Abuse of Authority: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine spoke discourteously to § 87(2)(b)
Allegation E – Abuse of Authority: Inside § 87(2)(b) in Brooklyn, Sgt. Burt Antoine threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that Sgt. Antoine said, “Don’t fucking move or I’ll shoot everyone in here.” § 87(2)(b) heard Sgt. Antoine say, “Don’t fucking move, I’m gonna shoot everyone in here,” while § 87(2)(b) heard him say, “Don’t fucking move.” § 87(2)(b) said that Sgt. Antoine said something to § 87(2)(b) which included the words “shoot” and “fuck.” § 87(2)(b) did not recall any statements made by the officers while inside of the house. Sgt. Antoine denied that he threatened to shoot § 87(2)(b) or any other individual. PO Feliz, PO Walters, and PO Marshall denied that Sgt. Antoine made such remarks. § 87(2)(g)

Allegation F – Force: In front of 595 Warwick Avenue in Brooklyn, Sgt. Burt Antoine used physical force against § 87(2)(b)

§ 87(2)(b) stated that Sgt. Antoine pushed him backwards against a fence and then pushed him down to the ground, causing him to sustain a small knot behind his ear. As § 87(2)(b)

§ 87(2)(g), § 87(4-b)

[REDACTED]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date